THE
NORTHWEST TERRITORIES
LAW FOUNDATION

SEVENTH ANNUAL REPORT

FOR THE FISCAL YEAR ENDING JUNE 30th, 1989

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SEVENTH ANNUAL REPORT

FOR THE FISCAL YEAR ENDING JUNE 30th, 1989

P.O. BOX 2594, YELLOWKNIFE, N.W.T. X1A 2P9
(403) 873-8275

Cover Photo:
Extensive winter roads are constructed each year to supply the oil industry and mines in the Western Arctic.

Chairman's Report

TO THE EXECUTIVE
LAW SOCIETY OF THE NORTHWEST TERRITORIES

I take great pleasure in presenting to you the 1988/89 Annual Report of the Law Foundation of the Northwest Territories. In accordance with the requirements of Section 55 of the Legal Profession Act, enclosed within this report are a summary of the grants made during our fiscal year ending June 30, 1989 and the audited financial statements for that year.

The Law Foundation's total revenue increased to $215,751.00 this year, an increase of 69% over that of the previous year. Our total grants this year were $73,794.00, an increase of 80% over last year's grant total. Last year I reported to you that revenues and expenditures had increased sharply as well; with the same progress this past year I am confident that the Foundation is well on its way to providing a much needed source of substantial income for legal education, legal reform and other legal services for the people of the Northwest Territories.

I wish to acknowledge and thank Richard I. Hardy for writing the article within this report on the Berger Inquiry. There is no doubt that the inquiry had and has a profound effect on the North generally and is therefore a most appropriate and compelling topic for inclusion in this Report.

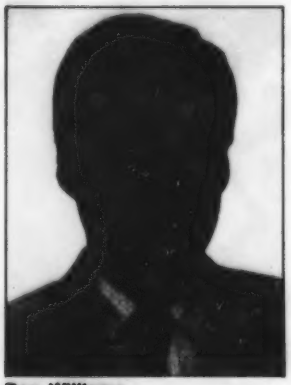
I wish to thank the Directors for this year, namely, Cheryl Walker, Richard Spaulding, Gary Boyd and Ronald Williams for their sound judgment and dedication. I am also most appreciative of the constant and competent assistance of our Executive Manager, Gordon Carter.

Respectfully submitted,
Loraine F. Minish-Cooper

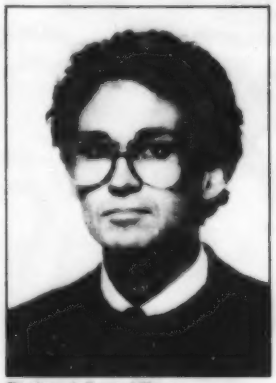
1988-89 Board of Directors

Loraine F. Minish-Cooper
Chairman

Cheryl Walker
1st Vice Chairman



Ron Williams
Appointed Director
2nd Vice Chairman



Richard Spaulding
Director

Gary Boyd
Director

Gordon R. Carter
Executive Manager

The N.W.T. Law Foundation

The Northwest Territories Law Foundation was enacted pursuant to Part VII of the Legal Profession Ordinance for the purpose of receiving the interest which banks must pay on clients' funds held by lawyers in mixed trust accounts. It is similar in form to Law Foundations established in most of the provinces.

Objectives

The objectives of the Foundation are to use the funds collected in this manner to provide funding in the following areas:

(a) conducting research into and recommending reform of the law and the administration of justice;

(b) establishing, maintaining and operating law libraries;

(c) contributing to the legal education and knowledge of members and the people of the Northwest Territories and providing programmes and facilities therefor;

(d) providing assistance to legal aid programmes and programmes of like nature;

(e) contributing to the Assurance Fund; and,

(f) doing all other things that, in the opinion of the Directors, are incidental or conducive to the attainment of these objects.

Administration

The Foundation is administered by a Board of Directors consisting of five members: four being members of the Law Society and appointed by the Executive of the Society and one who is not a member of the Law Society and appointed by the Commissioner. The Directors serve for a term of two years.

The Directors meet as required to decide on policy matters, to consider requests for funding and to deal with the general administration of the Foundation including policy as to the collection and investment of funds.

Administration and management services are provided through an Executive Manager who is engaged on a contract basis.

For information about the Northwest Territories Law Foundation and to request financial assistance forms, write or telephone

Gordon R. Carter
Executive Manager
The Northwest Territories Law Foundation
Box 2594, Yellowknife, N.W.T. X1A 2P9
Telephone (403) 873-8275

Grants 1988-89

Arctic Public Legal Education ..... **$ 20,000.00**
Assistance to PLEI to explain the law and the legal system to residents of the NWT

Law Society of the Northwest Territories ..... **$ 9,559.00**
Assistance to the Law Society of 50% of the cost of publishing the Northwest Territories Law Reports

University of Saskatchewan ..... **$ 2,500.00**
Assistance to the University in their program to assist Native people gain admission to the study of law and to carry out research and publication issues on native issues. $7,500 commitment to be paid over three years - second year payment

Canadian Law Information Council ..... **$ 1,210.00**
Assistance to CLIC in their program of research, education and dissemination of information

Canadian Bar Foundation ..... **$ 525.00**
Assistance to CBA in their program of publishing the Canadian Bar Review

Canadian Bar - Law for the Future Fund ..... **$ 1,000.00**
Assistance in the CBA program of research, study and analysis on a number of issues. $5,000 commitment over five years - second year payment

N.W.T. Family Law Reform Project ..... **$ 30,000.00**
An estimated $300,000 two year project being performed on contract and directed by an Ad Hoc working group consisting of the Advisory Council on the Status of Women; Family Mediation Association; NWT Department of Justice; Dene Nation; Metis Association; Dene Cultural Institute, and representatives of the private bar. Administration provided by GNWT - Department of Justice. Committed funds for first year.

N.W.T. Native Women's Association ..... **$ 7,000.00**
Funding to assist in staging a Child Sexual Abuse Conference

Western Judicial Education Centre ..... **$ 2,000.00**
Assistance to provide an educational program for Judges from Western Canada and the two Territories

MACKENZIE VALLEY PIPELINE INQUIRY

COMMISSIONER
Mr. Justice Thomas R. Berger

10th Floor
One Nicholas Street
Ottawa, Ontario K1N 7B7

April 15, 1977

The Honourable Warren Allmand
Minister of Indian Affairs and Northern Development
House of Commons
Ottawa, Ontario

Dear Mr. Allmand:

We are now at our last frontier. It is a frontier that all of us have read about, but few of us have seen. Profound issues, touching our deepest concerns as a nation, await us there.

The North is a frontier, but it is a homeland too, the homeland of the Dene, Inuit and Metis, as it is also the home of the white people who live there. And it is a heritage, a unique environment that we are called upon to preserve for all Canadians.

The decisions we have to make are not, therefore, simply about northern pipelines. They are decisions about the protection of the northern environment and the future of northern peoples.

The above are the opening paragraphs of the letter accompanying Mr. Justice Thomas R. Berger's report.

Scene on the Dempster Highway linking Inuvik with the rest of Canada.

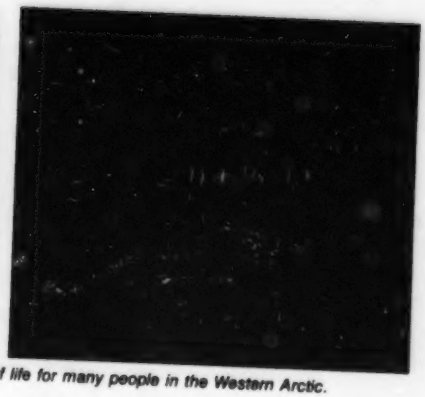
The Berger Inquiry

On March 21, 1974, the Federal Cabinet appointed Mr. Justice Thomas R. Berger, a Judge of the British Columbia Supreme Court, as Commissioner of the Mackenzie Valley Pipeline Inquiry. Thus began one of the most controversial periods in the recent history of the Northwest Territories.

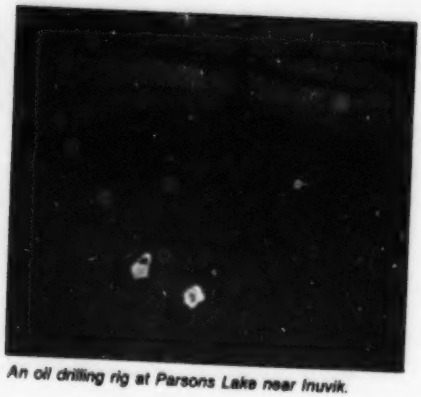
The appointment of Mr. Justice Berger was in response to proposals made by pipeline companies to transport natural gas, by pipeline, from the North Slope of Alaska and the Mackenzie Delta to the lower 48 states. The Commission was to "inquire into and report upon the terms and conditions that should be imposed in respect of any right-of-way that might be granted across Crown lands for the purposes of the proposed Mackenzie Valley Pipeline..."

Mr. Justice Berger spent the next three years conducting hearings which were divided into formal hearings in Yellowknife where rules of procedure and evidence were followed; and community hearings in 35 other communities in the Mackenzie Valley and Western Arctic where few formalities were observed. Additionally, the Inquiry also held a series of hearings across Southern Canada to hear the views of outsiders.

The Inquiry sparked many emotional debates and even to this day can rise the ire of normally reasonable people. Notwithstanding one's view of the Inquiry or Mr. Justice Berger's final recommendations, which were published in two volumes dated April 15, 1977 and November 30, 1977, they form a lasting part of the social, economic and legal history of the Northwest Territories.



Hunting, trapping and living off the land is still a way of life for many people in the Western Arctic.



An oil drilling rig at Parsons Lake near Inuvik.

The recommendations, while detailed and well reasoned, were blunt: "There should be no pipeline across the Northern Yukon ... (a)nd a Mackenzie Valley pipeline should be postponed for ten years..."

Mr. Justice Berger's main reason for recommending a delay of ten years on the Mackenzie Valley portion was to allow time for the settlement of native land claims. He stated: "In my opinion, a period of ten years will be required in the Mackenzie Valley and Western Arctic to settle native claims, and to establish the new institutions and new programs that a settlement will entail. No pipeline should be built until these things have been achieved."

This recommendation becomes very interesting in light of the fact that it was made twelve years ago and that there were two native claims involved in the geographical area that the Inquiry was concerned with. The first claim being that of the Inuvialuit which was settled and brought into legislation in 1984. By all accounts this claim is well into its implementation stage.

The other claim, being that of the Dene/Metis, is not so far advanced. The most optimistic expectation is that this claim is two years away from the beginnings of implementation.

Add to this state of the claims process the fact that the oil and gas industry is once again applying to build a pipeline from the Mackenzie Delta, one can see a very interesting scenario developing. No doubt many people will be dusting off their copies of Mr. Justice Berger's report in the near future.

Marine equipment over-wintering at Inuvik on the East Branch of the Mackenzie River.

A barge tow leaving Hay River for the thousand mile trip to the Arctic Ocean.

Auditors' Report

Board of Directors
Northwest Territories Law Foundation

We have examined the Balance Sheet of the Northwest Territories Law Foundation for the year ended June 30, 1989 and the Statement of Revenue and Expenditure for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests as we considered necessary in the circumstances.

A major part of the Foundation's revenue is interest from accounts of its members which is not susceptible to complete audit verification because of the lack of a system of control. Accordingly, our verification of receipts from this source was limited to accounting for the amounts recorded in the accounts of the Foundation.

In our opinion, except for the effect of adjustments, if any, which might have been required had interest from trust accounts been susceptible to complete audit verification, these financial statements present fairly the assets and liabilities of the Foundation as at June 30, 1989 and the results of its operations for the year then ended, in accordance with the accounting principles set out in the Notes to the Financial Statements, applied on a basis consistent with that of the preceding year.

Hinchey, Wowk, Williams, Avery & Co.
Certified General Accountants
Yellowknife, N.W.T.

July 25, 1989

Statement I

NORTHWEST TERRITORIES LAW FOUNDATION

BALANCE SHEET
JUNE 30, 1989

ASSETS

	1989	1988
Current		
Cash	$178,099	$111,659
Term Deposits	150,000	100,000
Accounts Receivable	14,666	8,473
	$342,765	$220,132

LIABILITIES AND SURPLUS

Current		
Accounts Payable and Accruals	$ 1,500	$ 900
Surplus		
Opening Balance	219,232	153,248
Prior Period Adjustment	—	115
Excess Revenue per Statement II	122,033	65,869
Closing Balance	341,265	219,232
	$342,765	$220,132

Approved:

_____ Director

_____ Director

See the attached notes.

Statement II

NORTHWEST TERRITORIES LAW FOUNDATION

STATEMENT OF REVENUE AND EXPENDITURE
FOR THE YEAR ENDED JUNE 30, 1989

	1989	1988
Revenue		
Interest on Trust Accounts	$192,961	$115,662
Interest on Term Deposits and Bank	22,790	12,052
Donation	—	500
	215,751	128,214
Expenditure		
Administration Fees	9,321	7,500
Dues	194	205
Executive	1,600	3,206
Office and Miscellaneous	3,530	1,596
Grants	73,794	46,700
Printing	3,279	1,738
Professional Fees	2,000	1,400
	93,718	62,345
Excess Revenue	$122,033	$ 65,869

See the attached notes.

Notes

NORTHWEST TERRITORIES LAW FOUNDATION

NOTES TO THE FINANCIAL STATEMENTS

JUNE 30, 1989

NOTE 1 Status

The Foundation is incorporated under the laws of the Northwest Territories.

NOTE 2 Significant Accounting Policy

The Foundation records revenue from interest on members trust accounts as these amounts are received from members of the Law Society of the Northwest Territories.

Part VII

NORTHWEST TERRITORIES LAW FOUNDATION

Northwest Territories Law Foundation

50. There is hereby established a body corporate and politic to be known as the Northwest Territories Law Foundation (in this Part called the "Foundation").

Objects

51. The objects of the Foundation are

(a) to receive moneys and property and to maintain and manage a fund, the interest and capital of which is to be used from time to time as the board of directors of the Foundation see fit for

(i) conducting research into and recommending reform of law and the administration of justice;

(ii) establishing, maintaining and operating law libraries;

(iii) contributing to the legal education and knowledge of members and the people of the Territories and providing programs and facilities therefor;

(iv) providing assistance to legal aid programs and programs of like nature;

(v) contributing to the Assurance Fund; and

(b) doing all other things that are, in the opinion of the directors, incidental or conducive to the attainment of the objects enumerated in paragraph *(a)*.

Board of directors

52.(1) The affairs of the Foundation shall be conducted by a board of directors composed of

(a) a person who is not a member of the Society and who shall be appointed by the Commissioner; and

(b) four other persons to be appointed from among the membership of the Society by the Executive in accordance with the rules.

Tenure

(2) The term of office of the directors of the Foundation shall be for a period of two years.

Chairman

(3) The Executive shall designate one member of the board of directors as chairman.

Quorum

(4) Three members of the board of directors constitute a quorum.

By-laws

53.(1) The board may make by-laws respecting calling of meetings of the board and the conduct of business thereat, the duties and conduct of members and generally as to the conduct of the business and affairs of the Foundation.

Idem

(2) Without limiting the generality of subsection (1), the board may make by-laws regarding

(a) the number and designation of officers of the Foundation;

(b) the appointment of and terms of office of officers of the Foundation and all matters relating to their offices;

(c) the resignation or removal from office of officers of the Foundation;

(d) the number and designations of employees of the Foundation other than officers, and their terms and conditions of employment;

(e) the remuneration, if any, of officers and employees of the Foundation, and

(f) the operation of the Law Foundation Account.

Application of funds

54.(1) The board shall apply, and cause to be applied, the funds of the Foundation, in such manner as the board may decide, in carrying out the objects of the Foundation.

Funds

(2) The funds of the Foundation shall consist of all sums paid to the Foundation pursuant to section 57, interest accruing from investment of the funds of the Foundation, and any other moneys received by the Foundation.

Disbursements from funds

(3) There shall be paid out of the funds of the Foundation the costs, charges and expenses involved in the administration of the Foundation, and the costs, charges, and expenses incurred by the board in carrying out the objects of the Foundation.

Expenses of directors

(4) No director may receive any remuneration for his services but the directors shall be entitled to be paid out of the funds of the Foundation their reasonable travelling and living expenses while absent from their respective ordinary places of residence in the course of their duties as members of the board.

Deposit of funds

(5) All funds of the Foundation shall, pending investment or application in accordance with this section, be paid into a bank, treasury branch, credit union or trust company in the Territories to the credit of a separate account to be called the "Law Foundation Account".

Investment of funds

(6) Any funds that are not immediately required for the purposes of the Foundation may be invested in the name of the Foundation by the directors but in so doing the directors are not subject to the provisions of the *Trustee Ordinance* respecting the investment of trust funds.

Audit

(7) The accounts of the Foundation shall be audited annually by a chartered accountant or a certified general accountant appointed by the board.

Annual report

55.(1) After the end of each year, the Foundation shall prepare and submit to the Executive a report consisting of

(a) a general summary of its transactions and affairs during that year, its revenues and expenditures during that year,

(b) an audited balance sheet, and

(c) such other information as the Executive may require.

Tabling of report before Council

(2) Upon receiving a report under subsection (1), the Executive shall cause a copy of it to be tabled in Council if it is then is session, and if not, within five days after the commencement of the next ensuing session.

Borrowing

56. The Foundation may borrow or raise or secure the payment of money upon the credit of the Foundation from time to time as the board of directors thinks fit to fulfil the objects of the Foundation and may for that purpose issue notes, bonds, debentures, debenture stock or other evidences of indebtedness.

Trust accounts

57.(1) Every member (or firm of more than one member which shall be included in the term "member") shall maintain an interest-bearing trust account in a bank, trust company, credit union or treasury branch into which he shall deposit any moneys received by him upon trust from or on account of any client and shall instruct the bank, trust company, credit union or treasury branch to remit the interest earned thereon to the Foundation semi-annually and such interest thereupon becomes the property of the Foundation.

Interest

(2) A member is not liable, by virtue of the relation between the member and his client, to account to any client for interest earned on money deposited in the bank, trust company, credit union or treasury branch pursuant to subsection (1).

Idem

(3) Nothing in this Part affects any arrangement made between a member and his client to deposit money received from or on behalf of the client or to which the client is entitled, in a separate account for the client at interest, which interest shall be the property of the client.

Dissolution of foundation

58. Upon the dissolution of the Foundation, the net assets thereof shall be paid to the Society to be used for such purposes as the Society shall determine.